

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

LAWRENCE I. FRIEDMANN,

Plaintiff,

- against -

RAYMOUR FURNITURE CO., INC., and
LUCY GOLDSTEIN, individually,

Defendants.

12 CV 1307 (LDW)(AKT)

**FIRST AMENDED JOINT
PRE-TRIAL ORDER**

WEXLER, District Judge:

The parties having conferred among themselves and pursuant to Rule 4.A. of the Individual Rules of the Honorable Leonard D. Wexler, U.S.D.J., Plaintiff Lawrence I. Friedmann (“Plaintiff” or “Friedmann”) and Defendant Raymour Furniture Company, Inc., d/b/a Raymour & Flanigan Furniture (“Defendant” or “Raymour & Flanigan”),¹ submit the following First Amended Joint Pre-trial Order in this matter:²

¹ Plaintiff’s Statement: By Order dated October 16, 2012, this Court dismissed all of Plaintiff’s claims under the New York State Human Rights Law, including the claims against the individual defendant. “Defendant Raymour [& Flanigan]’s motion to dismiss is granted . . . to the extent that Plaintiff’s NYSHRL claims are dismissed, but is otherwise denied.” Of Plaintiff’s four (4) original causes of action, two (2) remain against Raymour & Flanigan: (i) age discrimination in violation of the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 623 *et seq.* and (ii) disability discrimination in violation of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12112 *et seq.*

² Plaintiff’s Statement: Pursuant to the Individual Rules of Judge Wexler, Rule 4.A. “the parties shall submit, within sixty days from the date for the completion of discovery . . . a joint [pre-trial] order.” Plaintiff however, respectfully submits that only he has completed discovery obligations and he therefore has been prevented from seeking documents and information that support his claims in this case and that he needs for trial. The Court ruled on June 5, 2013 that only “[t]o the extent that [D]efendant has agreed to produce certain discovery, as stated in the penultimate paragraph of Defendant’s . . . [June 4, 2013] Letter, that portion of [P]laintiff’s [O]bjection to the Magistrate Judge’s orders regarding discovery is moot.” *See* Defendant’s June 4, 2013 letter at the penultimate paragraph stated that Defendant would “produce . . . coaching plans for Karen and Rafael. . . . This was **the only**

(Footnote continued on next page)

I. FULL CAPTION

The full caption of this case appears in the caption to this First Amended Joint Pre-trial Order.

II. TRIAL COUNSEL

A. Trial Counsel for Plaintiff is as follows:

Walker G. Harman, Jr., Esq.
Peter J. Andrews, Esq.
The Harman Firm, PC
200 West 57th Street, Suite 900
New York, New York 10019
(212) 425-2600

B. Trial Counsel for Defendant is as follows:

Tara Eyer Daub, Esq.
Jessica Chiclacos, Esq.
Nixon Peabody LLP
50 Jericho Quadrangle
Suite 300
Jericho, New York 11753
(516) 832-7500 (telephone)
(516) 832-7555 (facsimile)

III. STATEMENT PERTAINING TO TRIAL

A. Plaintiff's statement: Pursuant to the Court's Individual Practice Rule 4.A.iii., Plaintiff respectfully reiterates that he "demands a trial by jury." Compl. ¶ 10. It is Plaintiff's understanding that he will require approximately two (2) days to try this action. That estimate is not inclusive of the time required to select members of the jury or to cross-examine witnesses called by Defendant.

(Footnote continued from previous page)

issue Plaintiff submitted to Magistrate Tomlinson regarding performance improvement plans and **the only issue** within the scope of Plaintiff's pending objections." Defendant's June 4, 2013 Letter at 4 (emphasis added). Meanwhile, Plaintiff's request was multifarious, but specific and stated that "Defendant purports that Plaintiff was the only individual terminated from his location for not meeting his sales goals, but refuses to produce documentation to support that purportedly legitimate, nondiscriminatory reason" to which Plaintiff should have been entitled anyway pursuant to *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802, 93 S. Ct. 1817, 1824 (1973). Plaintiff's Mar. 20, 2013 Objection at 6.

- B. Defendant's statement: Plaintiff has demanded a jury trial. Defendant estimates that the presentation of its case will take two (2) days.

IV. LIST OF FACT WITNESSES FOR CASE IN CHIEF

- A. Plaintiff reserves the right and intends to call the following witnesses to testify at trial:³

1. Plaintiff Lawrence I. Friedmann (will testify in person)
2. Lucy Goldstein (will be called to testify in person)
3. Iman Kasmi or Khazmi (Assistant Store Manager, will be called to testify in person)
4. Anthony Baines (Assistant Store Manager, will be called to testify in person)
5. Anthony Bender (Regional Sales Manager, will be called to testify in person)
6. James "Jim" Powers (Regional Vice President, will be called to testify in person)
7. Michael Mosca (Sales Associate, will be called to testify in person)
8. Joseph Moscon (Sales Associate, will be called to testify in person)
9. Judith or Judit Rubin (Sales Associate, will be called to testify in person)
10. Danguole Pasyte (upon information and belief, also known as Danquole Pasyte; a Sales Associate, who performed worse than Plaintiff but whom Defendant did not terminate thereby underscoring pretext, will be called to testify in person)
11. Laura D'Ambrosio (in person)
12. Patricia DelGenio (VP of Defendant's HR, in person)

³ Plaintiff is unable to submit a complete list of witnesses unless or until the Defendant is directed to produce the identities of the people against whom Plaintiff was judged to have inferior sales figures at the time of his termination. *See, e.g.*, Plaintiff's Feb. 8, 2013 Second Amended Motion to Compel Defendant[] to Produce Discovery (Docket Entry 37), as well as Plaintiff's Mar. 20, 2013 Objection to Magistrate Judge Tomlinson's Orders Regarding Discovery (Docket Entry 46), and Plaintiff's Mar. 21, 2013 Letter regarding Defendant's production during discovery and Defendant's forthcoming motion for summary judgment (Docket Entry 47).

13. Rafael Gonzalez (Sales Associate on a performance improvement plan, will be called to testify in person)
14. Karen Budhan Ali (Sales Associate on a performance improvement plan who performed worse than Plaintiff but whom Defendant did not terminate thereby underscoring pretext, will be called to testify in person)
15. Nardia Palmatier (Sales Associate on a performance improvement plan who performed worse than Plaintiff but whom Defendant did not terminate thereby underscoring pretext, will be called to testify in person)
16. Mark Forster (Sales Associate who performed worse than Plaintiff but whom Defendant did not terminate thereby underscoring pretext, will be called to testify in person)
17. Vasilos Toufexis (Sales Associate who performed worse than Plaintiff but whom Defendant did not terminate thereby underscoring pretext, will be called to testify in person)
18. Robert Ruvel (upon information and belief, also known as Robert Revel; a Sales Associate who performed worse than Plaintiff but whom Defendant did not terminate thereby underscoring pretext, will be called to testify in person)
19. Trevor Lall (Sales Associate who performed worse than Plaintiff but whom Defendant did not terminate thereby underscoring pretext, will be called to testify in person)

Plaintiff reserves the right to call any witnesses at trial listed by Defendant or by Plaintiff. In addition, Plaintiff reserves the right to call at trial witnesses not listed above for impeachment and/or rebuttal purposes.

Defendant's Statement: Defendant objects to Plaintiff's inappropriate, unsupported and argumentative statements of alleged fact and opinion above and his other argumentative statements throughout this document. Defendant requests that the court strike and disregard Plaintiff's improper statements.

B. Defendant's witnesses:

1. Laura D'Ambrosio (in person)
2. Patricia Delgenio (in person)
3. Lucy Goldstein (in person)
4. Jim Powers (in person)
5. Christine Rowland (in person)

Defendant reserves the right to call any witnesses at trial listed by Plaintiff above or to not call any of the witnesses identified by Defendant. In addition, Defendant reserves the right to call at trial witnesses not listed above for impeachment and/or rebuttal purposes.

V. LIST OF EXPERT WITNESSES

1. Plaintiff's expert witness: None⁴
2. Defendant's expert witness: None

Plaintiff respectfully requests the right to amend this list until the time of trial. Plaintiff is unable to properly assess the necessity of an expert witness due to the fact that Defendants never produced the discovery to which the aggrieved, Mr. Friedmann, was entitled. Defendants state in their June 4, 2013 letter to the Court that they

VI. DEPOSITION TESTIMONY

- A. Plaintiff will offer the following deposition testimony in his case in chief in the event that witnesses are not able to provide live testimony at trial:

Deponent	Page(s)/Line(s)	Objections
Lucy Goldstein	13:20–14:7	Relevance
Lucy Goldstein	14:15–15:19	Relevance
Lucy Goldstein	3:19–21	Relevance
Lucy Goldstein	21:1–2	
Lucy Goldstein	61:18–21	Relevance
Lucy Goldstein	66:5–8	Relevance
Lucy Goldstein	71:3–6	Relevance
Lucy Goldstein	77:18–25	
Lucy Goldstein	79:2–5	Relevance
Lucy Goldstein	79:15–21	
Lucy Goldstein	84:21–25	
Lucy Goldstein	85:1–2	
Lucy Goldstein	88:17–89:3	Relevance
Lucy Goldstein	92:7–19	Relevance
Lucy Goldstein	95:21–25	
Patricia DelGenio	13:16–14:16	Relevance
Patricia DelGenio	54:7–61:16	Relevance
Patricia DelGenio	61:19–67:5	Relevance
Patricia DelGenio	78:9–83:25	
Patricia DelGenio	81:7–14	
Patricia DelGenio	84:12–85:25	Relevance

⁴ Plaintiff's intention to not call any expert witnesses at trial was reiterated and confirmed before Magistrate Judge Tomlinson at the May 21, 2013 Final Pre-trial Conference.

Defendant reserves the right to use any testimony listed by Plaintiff above or to not use any of that testimony. In addition, Defendant reserves the right to use at trial testimony not explicitly listed above for impeachment and/or rebuttal purposes.

B. Defendant will offer the following deposition testimony in its case in chief:

Deponent	Page(s)/Line(s)	Objections
Plaintiff	30:8-31:18	Lack of foundation
Plaintiff	33:8-23	
Plaintiff	35:14-17	Lack of foundation
Plaintiff	36:5-37:5	
Plaintiff	37:12-15	Lack of foundation
Plaintiff	44:5-7	
Plaintiff	51:17-55:8	
Plaintiff	57:12-58:6	Irrelevant, misleading
Plaintiff	61:22-62:4	Irrelevant, misleading
Plaintiff	66:9-67:25	Lack of foundation; irrelevant; misleading
Plaintiff	73:4-10	Lack of foundation
Plaintiff	74:3-6	Lack of foundation
Plaintiff	75:12-18	
Plaintiff	85:13-87:11	Irrelevant
Plaintiff	95:14-98:10	
Plaintiff	104:22-105:7	
Plaintiff	110:14-111:4	Lack of foundation
Plaintiff	113:6-11	Lack of foundation
Plaintiff	146:16-147:5	
Plaintiff	148:12-18	
Plaintiff	156:10-17	Lack of foundation
Plaintiff	159:16-160:9	

Plaintiff reserves the right to use any testimony listed by Defendant above or to not use any of that testimony. In addition, Plaintiff reserves the right to use at trial testimony not explicitly listed above for impeachment and/or rebuttal purposes.

VII. EXHIBITS

A. The following table lists the exhibits that Plaintiff expects to offer as evidence at trial:⁵

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
1-14	(Plaintiff's Exhibits 1-14 ⁶ have been voluntarily rescinded by Plaintiff, therefore any remaining objections thereto are moot.)		
15	Plaintiff's Charge of Discrimination submitted to the Equal Employment Opportunity Commission ("EEOC")	FRIEDMANN 001-08	
16	EEOC's Notice of Right to Sue issued Dec. 19, 2011	FRIEDMANN 009-10	
17	Plaintiff's earnings and commissions during 2010-11	FRIEDMANN 011-22	Relevance
18	Associate Sales Projection and Flash Report	FRIEDMANN 023-25	Relevance
19	Associate Business Planner	FRIEDMANN 026	Relevance
20	Associate Bedding Budget	FRIEDMANN 027	Relevance

⁵ Plaintiff is unable to submit a complete list of exhibits for introduction to the jury unless or until the Defendant is directed to produce the outstanding discovery that he has sought with the Court's guidance since December 2012. *See also n.3 supra.*

⁶ Plaintiff's Exhibits 1-14 were previously for Plaintiff's federal and state tax returns for each year, 2006 to 2012 inclusive.

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
21	Plaintiff's Earnings Statement from subsequent employer, La-Z-Boy	FRIEDMANN 066	Authenticity
22	Plaintiff's Earnings Statement from subsequent employer, Jos. A Bank	FRIEDMANN 067	Authenticity
23	Plaintiff's Unemployment Insurance for 2011 Form 1099-G	FRIEDMANN 068	Authenticity
24	Plaintiff's pension Form 1099-R	FRIEDMANN 070	Authenticity
25	Plaintiff's health insurance claim documents	FRIEDMANN 029-54, FRIEDMANN 056-62	Authenticity
26	Plaintiff's Social Security benefits statement	FRIEDMANN 063-65, FRIEDMANN 069	Authenticity

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
27	(Plaintiff's Exhibit 27 has been rescinded by Plaintiff pursuant to the May 21, 2013 Pre-trial Conference, therefore any remaining objections thereto are moot.)		Plaintiff purports to designate Defendant's entire document production. Defendant's position is that this designation does not comply with the Court's rules. Defendant reserves all objections. To the extent a statement of objections is required, Defendant's objections may include, but are not limited to, relevance.
28	Letters regarding COBRA, Aug. 24, 2011	D 000001-02	Relevance
29	Letter regarding benefits at Plaintiff's termination, June 29, 2011	D 000002-09	Relevance
30	Document regarding life insurance, June 29, 2011	D 000010	Relevance
31	Payroll documents for Plaintiff	D 000011-13, D 000016	
32	Notice of Plaintiff's at-will status, Oct. 7, 2009	D 000014-15	
33	Email to and from payroll department	D 000017-19, D 000031	Relevance

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
34	Automatic pay plan changes, Oct. 21, 2005	D 000020	Relevance
35	Plaintiff's application to work for Defendant, Oct. 20, 2005	D 000021–22	
36	New hire report	D 000023–24, D 000449	Relevance
37	Plaintiff's Form W-4, 2005	D 000025–26	Relevance
38	Defendant's internal at-hire documentation regarding Plaintiff	D 000027–30	Relevance
39	Plaintiff's direct deposit authorization	D 000032–34	Relevance
40	<i>Horarium</i> for Plaintiff	D 000035	Relevance
41	Performance Evaluation and Development Form for Plaintiff annotated "GREAT MONTH"	D 000036	Relevance
42	Performance Evaluation and Development Form for Plaintiff dated June 7, 2008, annotated "Works well [sic] of all"	D 000037	Relevance
43	Performance Evaluation and Development Form for Plaintiff dated Aug. 17, 2008, annotated "has had a bad month—vacations—etc."	D 000038	Relevance
44	Coaching for Success plan for Plaintiff, purportedly signed by manager only, May 7, 2011	D 000039	

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
45	Coaching for Success plan for Plaintiff, signed May 23, 2011	D 000042–44	
46	Sales performance evaluation, purportedly for Jan. 1–June 3, 2011	D 000045	
47	Annotated document, Nov. 11, 2008	D 000046	Relevance
48	Annotated document, Nov. 1, 2008	D 000047	Relevance
49	Weekly Associates Commission Statement, Dec. 19, 2009–Jun. 24, 2011	D 000048– D 000126	Relevance
50	EEOC letter to Defendant, Dec. 12, 2011	D 000127–28	
51	EEOC Charge of Discrimination produced by Defendant, signed Oct. 21, 2011	D 000129–31	
52	EEOC Notice of Right to Sue produced by Defendant, mailed Dec. 19, 2011	D 000132–33	
53	Defendant's production entitled "Professional Conduct & Anti-Harassment Awareness Raymour & Flanigan Furniture"	D 000134–57	
54	Defendant's production entitled "Professional Conduct & Harassment Awareness Training for Associates"	D 000158–73	
55	Defendant's No Discrimination and No Harassment Policy signed Mar. 7, 2010	D 000175	

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
56	Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture signed by Plaintiff Mar. 7, 2010	D 000176	
57	Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture signed by Lucy Goldstein, Nov. 1, 2006	D 000177	
58	Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture signed by Laura D'Ambrosio, July 30, 2007	D 000178	
59	Raymour & Flanigan Furniture Associate Handbooks	D 000179-408	
60	Email from Laura D'Ambrosio regarding Plaintiff, June 21, 2011	D 000409	
61	Lucy Goldstein's "Receipt and Acknowledgment of Raymour & Flanigan Associate Handbook and Acknowledgement of At-Will Employment Status" and Addendum signed Nov. 4, 2009	D 000410-11	
62	Lucy Goldstein's "Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture" signed Oct. 1, 2007	D 000412	
63	Lucy Goldstein's "Receipt and Acknowledgement of Professional Conduct & Harassment Awareness Training at Raymour & Flanigan Furniture" signed Nov. 1, 2006	D 000413	

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
64	IRS Form W-4 for Lucy Goldstein, signed Mar. 18, 2006	D 000414–15	Relevance
65	Email from HR to Lucy Goldstein, Sept. 19, 2005	D 000416	Relevance
66	New Hire information for Lucy Goldstein, Nov. 10, 2004	D 000417, D 000447	Relevance
67	Lucy Goldstein's application for employment, signed Sept. 23, 2004	D 000418–19	Relevance
68	IRS Form W-4 for Lucy Goldstein, signed Nov. 10, 2004	D 000420	Relevance
69	Lucy Goldstein's Withholding Allowance Certificate	D 000421–22	Relevance
70	Lucy Goldstein's Information Technology Access Request Forms signed Nov. 10, 2004	D 000423	Relevance
71	Lucy Goldstein's Raymour & Flanigan Furniture 1099 Stats	D 000424	Relevance
72	Lucy Goldstein's Direct Deposit Authorization, Nov. 10, 2004	D 000425	Relevance
73	Lucy Goldstein Sales Agreement Form, Nov. 10, 2004	D 000426–27	Relevance
74	Email from Heather Lukowski to Rebecca Landon regarding Lucy Goldstein, Aug. 23, 2011	D 000428	Relevance

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
75	Lucy Goldstein record of medical leave, Aug. 2011	D 000429	Relevance
76	Emails regarding Lucy Goldstein between Patricia DelGenio, Erin Brundige, Jenna Casullo, Christine Crosby, and Lucy Goldstein, Aug. 9, 2011	D 000430	Relevance
77	Email from Heather Lukowski to Rebecca Landon regarding Lucy Goldstein, Aug. 8, 2011	D 000431	Relevance
78	Email regarding Lucy Goldstein from Aubrey Branagan to Rebecca Landon, Feb. 7, 2011	D 000432	Relevance
79	Lucy Goldstein "2011 Sales Pay Plan Changes" purportedly effective Jan. 1, 2011 (redacted by Defendant)	D 000433	Relevance
80	Emails between Lucy Goldstein and Rebecca Landon regarding Lucy Goldstein's Aug. 1, 2010 punch-out time, Aug. 9, 2010	D 000434	Relevance
81	Record of pay plan increase for Lucy Goldstein, purportedly effective Jan. 2, 2010	D 000435	Relevance
82	Email from Holly Heinze-Coolican to Christine Crosby regarding <i>inter alia</i> Lucy Goldstein's hours, July 21, 2009	D 000436	Relevance
83	Payroll documents for Lucy Goldstein, Oct. 2008	D 000437	Relevance
84	Payroll documents for Lucy Goldstein, Apr. 2007	D 000438	Relevance

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
85	Payroll documents for Lucy Goldstein, Oct. 2006	D 000439, D 000441	Relevance
86	Lucy Goldstein Automatic Pay Plan Changes, Sept. 23, 2006	D 000440	Relevance
87	Emails between Payroll Department and Michael Goldberg and Laurie Hammon regarding Lucy Goldstein, Mar. 2005–Apr. 2005	D 000442–44	Relevance
88	Photocopy of Lucy Goldstein's New York State Driver License	D 000445	Relevance
89	Photocopies of a blank check of Lucy Goldstein's ⁷	D 000446, D 000448	Relevance
90	(Plaintiff's Exhibit 90 has been rescinded by Plaintiff pursuant to the May 21, 2013 Pre-trial Conference.)		

⁷ Named therein as "LUCY M. GOLDSTEIN."

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
91	(Plaintiff's Exhibit 91 has been rescinded by Plaintiff pursuant to the May 21, 2013 Pre-trial Conference, therefore any remaining objections thereto are moot.) ⁸		Plaintiff purports to designate the entire transcript as a trial exhibit. Defendant objects and states its position that this designation does not comply with the Court's rules. Defendant reserves all objections. To the extent a statement of objections is required, Defendant's objections may include, but are not limited to, hearsay and relevance.

⁸ As stated at the Final Pre-trial Conference, Plaintiff's only intention of introducing a deposition transcript *in toto* as a trial exhibit depends on the deponent being unavailable to attend trial for whatever reason. Should the deponents attend the trial as is expected, the need to introduce transcripts as exhibits would be moot.

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
92	(Plaintiff's Exhibit 92 has been rescinded by Plaintiff pursuant to the May 21, 2013 Pre-trial Conference, therefore any remaining objections thereto are moot.) ⁸		Plaintiff purports to designate the entire transcript as a trial exhibit. Defendant's position is that this designation does not comply with the Court's rules. Defendant reserves all objections. To the extent a statement of objections is required, Defendant's objections may include, but are not limited to, hearsay and relevance.

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
93	(Plaintiff's Exhibit 93 has been rescinded by Plaintiff pursuant to the May 21, 2013 Pre-trial Conference, therefore any remaining objections thereto are moot.) ⁸		Plaintiff purports to designate the entire transcript as a trial exhibit. Defendant objects and states its position that this designation does not comply with the Court's rules. Defendant reserves all objections. To the extent a statement of objections is required, Defendant's objections may include, but are not limited to, hearsay and relevance.
94	Performance improvement plan of Rafael Gonzalez, signed May 15, 2011	D 000507-08	Relevance
95	Performance improvement plan of Rafael Gonzalez, signed July 17, 2011	D 000509-10	Relevance

Ex. No.	Description	Bates No. (where applicable)	Defendant's Objections
96	Sales Associate Flash Report, June 17, 2011	FRIEDMANN 071-76	<p>Plaintiff did not disclose this document or send the revision until 4:37 p.m. today (6/26/13), the date that the Amended Pretrial Order is due. Plaintiff's failure to produce this document in response to Defendant's discovery requests during discovery (closed 4 months ago on 2/25/13), or in the prior Pretrial Order, or thereafter, is an abuse of his discovery obligations and the document should be excluded under FRCP Rule 37 and other applicable rules.</p> <p>Relevance; Authenticity; Hearsay; Due to late notice, at 4:37 pm today, Defendant reserves all other objections.</p>

Plaintiff reserves the right to use any exhibits at trial listed above by Defendant or to not use any of the exhibits identified by Plaintiff. In addition, Plaintiff reserves the right to use at trial exhibits not listed above for impeachment and/or rebuttal purposes.

A. Defendant's Exhibits for its Case-In-Chief:

Exhibit	Description	Bates Number(s)	Plaintiff's Objection
A	Payroll Connection Form regarding Plaintiff's termination	D 000011	
B	Plaintiff's Receipt and Acknowledgment of Raymour & Flanigan Associate Handbook and Acknowledgment of At-Will Employment Status	D 000014	
C	Plaintiff's Receipt and Acknowledgment of Addendum to the Associate Handbook	D 000015	
D	Payroll Connection Form regarding Plaintiff's transfer to Garden City showroom	D 000016	
E	Plaintiff's Employment Application	D 000021- 000022	
F	Plaintiff's Sales Agreement Form	D 000029 - 000030	
G	Undated Performance Evaluation for Plaintiff	D 000036	
H	June 7, 2008 Performance Evaluation for Plaintiff	D 000037	
I	August 17, 2008 Performance Evaluation for Plaintiff	D 000038	
J	May 7, 2011 Coaching for Success Plan for Plaintiff	D 000039- 000040	

Exhibit	Description	Bates Number(s)	Plaintiff's Objection
K	May 23, 2011 Coaching for Success Plan for Plaintiff	D 000041- 000042	
L	June 13, 2011 Action Plan & Performance Agreement for Plaintiff	D 000043- 000044	
M	Performance Evaluation and Development Form for 2011 for Plaintiff	D 000045	
N	Plaintiff's 2010 Commission Statements	D 000049- 000101	
O	Plaintiff's 2011 Commission Statements	D 000102- 000126	
P	Professional Conduct & Anti-Harassment Awareness Presentation	D 000134- 000157	
Q	Professional Conduct & Harassment Awareness Training for Associates Presentation	D 000158- 000175	
R	Plaintiff's Mach 7, 2010 Receipt of No Discrimination and No Harassment Policy	D 000175- 000176	
S	Lucy Goldstein's November 1, 2006 Receipt and Acknowledgement of Harassment Training	D 000177	
T	Laura D'Ambrosio's January 30, 2007 Receipt and Acknowledgment of Harassment Training	D 000178	
U	Laura D'Ambrosio's June 21, 2011 E-mail regarding Plaintiff	D 000409	

Exhibit	Description	Bates Number(s)	Plaintiff's Objection
V	Raymour & Flanigan's March 2010 Associate Handbook	D 000179 - 000254	
W	Raymour & Flanigan's February 2, 2011 Associate Handbook	D 000355 – 000331	
X	Raymour & Flanigan's May 25, 2011 Associate Handbook	D 000332 - 000408	
Y	Plaintiff's 2010 federal and state tax returns	Plaintiff produced these documents without Bates numbers	Relevance
Z	Plaintiff's 2011 federal and state tax returns	Plaintiff produced these documents without Bates numbers	Relevance
AA	Plaintiff's 2012 federal and state tax returns ⁹	Plaintiff has failed to produce this document to date	Relevance ¹⁰

Defendant reserves the right to use any exhibits at trial listed by Plaintiff above or to not use any of the exhibits identified by Defendants. In addition, Defendant reserves the right to use at trial exhibits not listed above for impeachment and/or rebuttal purposes.

⁹ Defendant's Statement: Plaintiff included his 2012 federal and state tax returns in the Proposed Joint Pretrial Order dated May 14, 2013, yet failed to produce a copy of the documents to Defendant in accordance with this Court's Individual Rule 4(A)(vi) ("All exhibits listed are to be exchanged among the parties.") Additionally, these documents are responsive to Defendant's prior discovery requests and Plaintiff is obligated to promptly supplement his disclosures. Despite Plaintiff's counsel's representation to Magistrate Tomlinson during the pre-trial conference on May 21, 2013 that these documents would be immediately produced, Plaintiff has still not produced copies of his 2012 federal and state tax returns.

¹⁰ Plaintiff's Statement: In a May 22, 2013 letter to Defendant, Plaintiff stated that his 2012 tax returns "were included on Plaintiff's trial exhibit list . . . due to an inadvertent error for which we apologize. We have no such documents; we will . . . remove all references to them."

Dated: June 26, 2013

Walker G. Harman, Jr. [WH-8044]
THE HARMAN FIRM, PC
Attorneys for Plaintiff
200 West 57th Street, Suite 900
New York, New York 10019
(212) 425-2600
wharman@theharmanfirm.com

Peter J. Andrews [PA-3295]
THE HARMAN FIRM, PC
Attorneys for Plaintiff
pandrews@theharmanfirm.com



Tara Eyer Daub, Esq. [TE-7943]
Jessica Chiclacos, Esq. [JG-2534]
NIXON PEABODY LLP
Attorneys for Defendant Raymour & Flanigan
50 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 832-7500
tdaub@nixonpeabody.com
jchiclacos@nixonpeabody.com

SO ORDERED:

Hon. Leonard D. Wexler
United States District Judge

Dated: June 25, 2013



Walker G. Harman, Jr. [WH-8044]

THE HARMAN FIRM, PC

Attorneys for Plaintiff

200 West 57th Street, Suite 900

New York, New York 10019

(212) 425-2600

wharman@theharmanfirm.com

Peter J. Andrews [PA-3295]

THE HARMAN FIRM, PC

Attorneys for Plaintiff

pandrews@theharmanfirm.com

Tara Eyer Daub, Esq. [TE-7943]

Jessica Chiclacos, Esq. [JG-2534]

NIXON PEABODY LLP

Attorneys for Defendant Raymour & Flanigan

50 Jericho Quadrangle, Suite 300

Jericho, New York 11753

(516) 832-7500

tdaub@nixonpeabody.com

jchiclacos@nixonpeabody.com

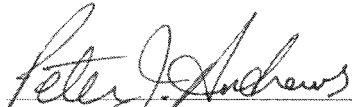
SO ORDERED:

Hon. Leonard D. Wexler

United States District Judge

Dated: June _____, 2013

Walker G. Harman, Jr. [WH-8044]
THE HARMAN FIRM, PC
Attorneys for Plaintiff
200 West 57th Street, Suite 900
New York, New York 10019
(212) 425-2600
wharman@thcharmanfirm.com



Peter J. Andrews [PA-3295]
THE HARMAN FIRM, PC
Attorneys for Plaintiff
pandrews@thcharmanfirm.com

Tara Eyer Daub, Esq. [TE-7943]
Jessica Chiclacos, Esq. [JG-2534]
NIXON PEABODY LLP
Attorneys for Defendant Raymour & Flanigan
50 Jericho Quadrangle, Suite 300
Jericho, New York 11753
(516) 832-7500
tdaub@nixonpeabody.com
jchiclacos@nixonpeabody.com

SO ORDERED:

Hon. Leonard D. Wexler
United States District Judge